

RECEIVED
CENTRAL FAX CENTER

FEB 10 2006

FACSIMILE COVER SHEET

DATE: 2/10/2006

TO: Examiner LY, Nghi H.
USPTO GPAU 2686

FAX NO.: 571-273-8300

FROM: Jeffrey G. Toler
Reg. No.: 38,342

RE U.S. App. No.: 10/764,812 filed 1/26/04

Applicant(s): Martha Karen Boyd

Atty Dkt No.: 1033-MS1013

Title: INTEGRATED MOBILE PHONE RING SCHEDULER

NO. OF PAGES (including Cover Sheet): 24

MESSAGE:

Attached please find:

- ☒ Transmittal Form(1 pg)
- ☒ Fee Transmittal (1 pg)
- ☒ Brief in Support of Appeal (20 pgs)

5000 Plaza On The Lake
Suite 265
AUSTIN, TEXAS 78746

Tel: (512) 327-5515
Fax: (512) 327-5452
www.tla-law.com

CONFIDENTIALITY NOTE

The pages accompanying this facsimile transmission contain information from the law office of Toler, Larson & Abel, L.L.P. and are confidential and privileged. The information is intended to be used by the individual(s) or entity(ies) named on this cover sheet only. If you are not the intended recipient be aware that reading disclosing copying distribution or use of the contents of this transmission is prohibited. Please notify us immediately if you have received this transmission in error at the number listed above and return the document to us via regular mail.


PTO/SB/21 (09-04)

Approved for use through 07/31/2008. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/764,812	
	Filing Date	January 26, 2004	
	First Named Inventor	Martha Karen Boyd	
	Art Unit	2686	
	Examiner Name	LY, NGHI H.	
Total Number of Pages in This Submission	23	Attorney Docket Number	1033-MS1013

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks <div style="text-align: center; font-size: 1.2em;">CUSTOMER NO.: 34456</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	TOLER, LARSON & ABEL, LLP		
Signature			
Printed name	Jeffrey G. Toler		
Date	2-10-2006	Reg. No.	38,342

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Grace Adamo	Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0851-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	10/764,812
Filing Date	January 26, 2004
First Named Inventor	Martha Karen Boyd
Examiner Name	LY, Nghi H.
Art Unit	2686
Attorney Docket No.	1033-MS1013

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 50-2469 Deposit Account Name: TOLER, LARSON & ABEL, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)

Small Entity Fee (\$)

Each independent claim over 3 (including Reissues)

50

25

Multiple dependent claims

200

100

Total Claims

Extra Claims

Fee (\$)

Fee Paid (\$)

- 20 or HP =

x

=

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims

Extra Claims

Fee (\$)

Fee Paid (\$)

- 3 or HP =

x

=

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
--------------	--------------	--	----------	---------------

- 100 = / 50 = (round up to a whole number) x

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge): Brief in Support of Appeal

500.00

SUBMITTED BY

Signature

Registration No. 38,342
(Attorney/Agent)

Telephone 512-327-5515

Name (Print/Type) Jeffrey G. Toler

Date 2-10-2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): **Martha Karen Boyd**Title: **INTEGRATED MOBILE PHONE RING SCHEDULER**App. No.: **10/764,812**Filed: **January 26, 2004**Examiner: **LY, NGHI H.**Group Art Unit: **2686**Atty. Dkt. No.: **1033-MS1013**Confirmation No.: **6578**

**BOARD OF PATENT APPEALS
AND INTERFERENCES**United States Patent
and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450**BRIEF IN SUPPORT OF APPEAL**Jeffrey G. Toler, Reg. No. 38,342
Attorney for Appellant
TOLER, LARSON & ABEL, LLP
5000 Plaza on the Lake, Suite 265
(512) 327-5515
(512) 327-5452 (fax)02/13/2006 MBINAS 88888031 582469 10764812
01 FC:1402 588.00 DA

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents on _____.	
<u>Grace Adams</u>	_____
Typed or Printed Name	Signature

I.	REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i)).....	1
II.	RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(C)(1)(II))	1
III.	STATUS OF CLAIMS (37 C.F.R. § 41.37(C)(1)(III)).....	1
	A. Total Number of Claims in Application	1
	B. Status of All the Claims	1
	C. Claims on Appeal.....	1
IV.	STATUS OF AMENDMENTS (37 C.F.R. § 41.37(C)(1)(IV))	1
V.	SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(C)(1)(V))	2
VI.	GROUND OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(C)(1)(VI)).....	4
VII.	ARGUMENT (37 C.F.R. § 41.37(C)(1)(VII)).....	4
	A. CLAIMS 1-4, 6, 7, 10, 12, 14, 16 AND 20 ARE ALLOWABLE	4
	B. CLAIMS 5, 15 AND 21 ARE ALLOWABLE OVER	8
VIII.	CLAIMS APPENDIX (37 C.F.R. § 41.37(C)(1)(VIII)).....	15
IX.	EVIDENCE APPENDIX (37 C.F.R. § 41.37(C)(1)(IX)).....	19
X.	RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(C)(1)(X))	19

I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The Real Party in Interest in the present Appeal is **SBC Knowledge Ventures, L.P.**, the assignee, of patent application no. **10/764,812**, as evidenced by the assignment set forth at Reel 014807, Frame 0931.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, Appellant is not aware of any such appeals or interferences.

III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))**A. Total Number of Claims in Application**

There are 19 claims pending in the application (claims 1-10, 12, 14-18, and 20-22).

B. Status of All the Claims

Claims 1, 12, 16, and 22 are independent claims. According to paragraphs 1 through 6 of the Final Office Action dated October 21, 2005, the Examiner states that Claims 1-10, 12, 14-18 and 20-22 stand rejected, and are hereby appealed. Claims 11, 13 and 19 were canceled in the Amendment filed August 7, 2005.

C. Claims on Appeal

There are 19 claims on appeal (claims 1-10, 12, 14-18, and 20-22).

IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

The claims hereby Appealed are based on the Amendment filed August 7, 2005. No amendment was offered or entered after the Final Office Action.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

The subject matter of Claim 1 can be summarized as follows:

A mobile telephone includes a ringer, a ringer schedule interface, a ringer controller, and a control. The ringer provides an audible alert of an incoming telephone call. The ringer schedule interface receives a ringer control schedule indicating time at which a parameter of the ringer is to change. The ringer controller automatically changes the parameter of the ringer according to the ringer control schedule. The control overrides the ringer control schedule.

Claim 1 finds support on at least page 2, paragraphs 0009 through page 5, paragraph 0017 of the specification.

The subject matter of Claim 12 can be summarized as follows:

A mobile telephone includes a ringer, a display device, a user input, a ringer schedule interface, a ringer controller, and a control. The ringer audibly alerts of an incoming telephone call. The ringer schedule interface receives a ringer control schedule indicating times at which a parameter of the ringer is to change. The ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create at least part of the ringer control schedule. The ringer controller automatically changes the parameter of the ringer according to the ringer control schedule. The control overrides the ringer control schedule. The ringer control schedule indicates, for each day of the week, the times at which the parameter is to change. The ringer control schedule includes a first time for a first day of the week at which the ringer is to be turned off and includes a second time for the first day of the week at which the ringer is to be turned back on.

Claim 12 finds support on at least page 2 paragraph 0009 through page 5 paragraph 0017 of the specification.

The subject matter of Claim 16 can be summarized as follows:

A mobile telephone includes a ringer, a display device, a user input device, an interface, a ringer schedule interface, and a ringer controller. The ringer audibly alerts of

an incoming call. The mobile telephone includes an interface to an external device. The ringer schedule interface receives a ringer control schedule indicating times at which a parameter of the ringer is to change. The ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule. The ringer schedule interface uses the interface to receive another part of the ringer control schedule created using and downloaded thereto by the external device. The ringer controller automatically changes the parameter of the ringer according to the ringer control schedule.

Claim 16 finds support on at least page 2, paragraph 0009 through page 5, paragraph 0017 of the specification.

The subject matter of Claim 22 can be summarized as follows:

A mobile telephone includes a ringer, a ringer schedule interface, a ringer controller, and an interface to an external device. The ringer provides an audible alert of an incoming telephone call. The ringer schedule interface receives a ringer control schedule indicating times at which a parameter of the ringer is to change. The ringer controller automatically changes the parameter of the ringer according to the ringer control schedule. The ringer schedule interface uses the interface to receive at least part of the ringer control schedule created using and downloaded by the external device. The interface includes a short-range wireless interface.

Claim 22 finds support on at least page 2 paragraph 0009 through page 5 paragraph 0017 of the specification.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

A. Claims 1-4, 6, 7, 10, 12, 14, 16, and 20 are rejected under 35 U.S.C. 103(a) based on U.S. Patent No. 6,831,970 ("Awada") in view of U.S. Patent No. 6,359,970 ("Burgess").

B. Claims 5, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Awada in view of U.S. Patent No. 6,763,105 ("Miura").

C. Claims 8, 9, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Awada in view of U.S. Patent No. 6,760,581 ("Dutta").

D. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Awada in view of Burgess and further in view of Dutta.

VII. ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

Appellant respectfully appeal each of the rejections applied against all claims now pending on appeal.

A. CLAIMS 1-4, 6, 7, 10, 12, 14, 16 AND 20 ARE ALLOWABLE OVER THE ASSERTED COMBINATION OF AWADA AND BURGESS.

Independent claims 1 and 12 and dependent claim 20 are allowable over the asserted combination of Awada and Burgess. None of the cited references, including Awada and Burgess, teach or suggest a control to override a ringer control schedule, as recited by claims 1, 12 and 20.

At pages 2 and 3, the Final Office Action asserts that Awada discloses a control to override the ringer control schedule. The sections of Awada referenced in the Office Action (the Abstract, col. 2, lines 46-67, and col. 5, lines 43-59) fail to disclose or suggest "a control to override the ringer control schedule," as recited by claims 1, 12 and 20. Awada discloses that a telephone may receive calendar information and profile associations that can be activated upon occurrence and for the duration of an event. See

Awada, Abstract. The calendar information may be updated by a software application of a remote profile activator (*See Awada*, Abstract, Figures 1 and 3, and col. 2, lines 55-60) and/or the telephone may update calendar information of a software application (*See Awada*, Abstract, col. 2, lines 62-67, and col. 5, lines 43-59). However, *Awada* discloses that the Firmware within the telephone 120 receives the profile activation information (box 170) and automatically activates the desired profile prior to the associated event based on the telephone profile activation information. *See Awada*, Col. 5, lines 31-42. *Awada* discloses that the profile of the telephone may be changed only after expiration of a scheduled event. *See Awada*, Abstract, and col. 2, lines 60-62. Consequently, *Awada* fails to disclose or suggest a control to override the ringer control schedule.

Thus, the Final Office Action erroneously concludes that *Awada* discloses a control to override the ringer control schedule because *Awada* discloses a technique for updating and converting calendar information. *Awada* teaches away from a schedule override since *Awada* teaches that "after an event has expired (either due to cancellation or completion), a subsequent profile may be activated." *See Awada*, Abstract and col. 2, lines 60-62. Thus, a profile remains active until the event expires, at which time a subsequent profile may be activated. *Awada* fails to disclose or suggest a control to override the ringer control schedule, as recited by claims 1, 12 and 20.

Contrary to the Office's assertions, one of ordinary skill in the art will appreciate that updating of a calendar is not the same as, or even analogous to, a control to override a ringer control schedule. Rather, updating a calendar as taught by *Awada* merely results in an update, or change, to a schedule represented by the calendar, which continues to remain in its normal operation until expiration or completion of a current event, whereas overriding a ringer control schedule results in a departure from the implemented schedule. *See, e.g., The American Heritage Dictionary of the English Language*, Fourth Edition, Houghton Mifflin Company, 2000, p. 1255 (defining "override" as "c. To

counteract the normal operation (of an automatic control); *see also Id.*, p. 1889 (defining “update” as “To bring up to date”).¹

Burgess discloses a communications controller to provide call screening functionality. *See Burgess*, Abstract. The user assigns one of a plurality of different priority levels for each caller and selects block time intervals for each priority to indicate times during which calls will not be passed to the user’s communication device. *See Burgess*, Abstract. The communications controller utilizes these settings to pass or block incoming calls. *See Burgess*, Abstract. Burgess discloses a process for handling emergency calls to bypass time blocks. *See Burgess*, col. 6, line 63 through Col. 7, line 7. While Burgess defines a process for bypassing the time block schedule, Burgess fails to disclose or suggest a control to override a ringer control schedule, as recited by claims 1, 12 and 20.

Accordingly, as Awada and Burgess fail to disclose or even suggest, individually or in combination, a control to override a ringer control schedule, the proposed combination of Awada and Burgess fails to disclose or suggest the particular combinations of features recited by claims 1, 12 and 20. Therefore, independent claims 1 and 12 and dependent claims 20 are allowable over the asserted combination of Awada and Burgess.

Independent claim 16 is allowable over the asserted combination of Awada and Burgess. Independent claim 16 recites a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule created using and downloaded thereto by the external device.

¹ These definitions are provided for illustrative purposes only and do not limit or in anyway effect the scope of the pending claims.

The Final Action asserts that "Awada does indeed teach a ring control schedule that is created [in] part by input from user a user interface [sic] of mobile telephone and downloaded from, an external device (see [Awada], column 2, lines 46-67, see 'remotely activate a profile of a telephone')." *Final Office Action*, p. 13 (emphasis in original).

The cited passage of Awada teaches that

In a preferred embodiment, the present invention includes a calendar application to receive and manage calendar information, associating a suitable telephone profile with the calendar information, transmitting these profile associations to the telephone and activating the desired profile at an appropriate time. After an event has expired (either due to cancellation or completion), a subsequent profile may be activated. In addition, an alternate embodiment of the present invention includes providing a means for the user to update profile and calendar information on the telephone and having that information transmitted to a remote profile activator (such as a calendar application).

See Awada, col. 2, lines 55-67 (emphasis added).

Thus, Awada teaches that calendar information may be updated in two alternate ways: 1) via the remote calendar application or 2) via the telephone. However, as illustrated by the identification of the first way as "in a preferred embodiment" and the identification of the second way as "an alternate embodiment," Awada describes using only one of the two described ways. Awada fails to disclose or suggest a user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule, as recited by claim 16.

Burgess discloses a communications controller, which may be separate from or integrated with the communications device. *See Burgess*, Abstract and col. 4, lines 9-27. In one embodiment, the input values such as user selected priority and blocking time intervals are provided to the communication controller 1000 by the user inputting such values to the Instantaneous Response Hardware 1001 (e.g. telephone device). *See Burgess*, col. 11, lines 52-56. Alternatively, an input device such as a keyboard device or personal computer can be coupled to the communications controller 1000 at input port 1013 to provide input for such values. *See Burgess*, col. 11, lines 57-60. Thus, like

Awada, Burgess discloses that the blocking information may be updated in two alternate ways: 1) via a keyboard/computer system or 2) via the telephone. Burgess fails to disclose or suggest a user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule, as recited by claim 16.

Accordingly, the asserted combination of Awada and Burgess fails to disclose or suggest the features of a mobile telephone comprising a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule created using and downloaded thereto by the external device, as recited by claim 16. The proposed combination of Awada and Burgess therefore fails to disclose or suggest the particular combination of features recited by claim 16.

Claims 2-4, 6, 7, 10, 14, and 20 depend from one of the independent claims 1, 12, or 16. The asserted combination of Awada and Burgess fails to disclose or suggest at least one element of each of the independent claims 1, 12, and 16; therefore, the asserted combination of Awada and Burgess fails to disclose or suggest at least one element of each of the dependent claims 2-4, 6, 7, 10, 14, and 20, at least by virtue of their dependency from one of the allowable independent claims 1, 12, and 16. Accordingly, the rejection of claims 1-4, 6, 7, 10, 12, 14, 16, and 20 over the asserted combination of Awada and Burgess should be withdrawn.

B. CLAIMS 5, 15 AND 21 ARE ALLOWABLE OVER AWADA IN VIEW OF MIURA.

Appellant traverses the rejection of claims 5, 15, and 21 under 35 U.S.C. 103(a) over Awada in view of U.S. Patent No. 6,763,105 ("Miura") at page 8, paragraph 3 of the Final Office Action. Claim 5 depends from claim 1, claim 15 depends from claim 12, and claim 21 depends from claim 16. As previously discussed, Awada fails to disclose or

suggest a mobile telephone having a control to override a ringer control schedule as recited by claims 1 and 12. Additionally, Awada fails to disclose or suggest a mobile telephone comprising a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule created using and downloaded thereto by the external device, as recited by claim 16. The Office Action fails to assert that Miura discloses or suggests these claimed elements. Accordingly, the Office Action fails to establish that the proposed combination of Awada and Miura discloses or suggests the specific combination of elements recited by claims 5, 15, and 21 at least by virtue of their dependency from claims 1, 12, and 16, respectively. Therefore, the rejection of the claims 5, 15, and 21 should be withdrawn.

Further, Miura discloses that a user sets a start and end time of a call incoming operation limiting function and the tone of the ringer during that period. *See Miura*, col. 6, lines 45-54. Miura discloses that when the clock of the telephone matches the start time, the call incoming operation limiting function control unit instructs the ring tone volume unit to change the tone volume accordingly. *See Miura*, col. 6, lines 55-65. Miura discloses following a pre-defined tone adjustment schedule, but fails to disclose or suggest a control to override a ringer control schedule, as recited by claims 1 and 12. Additionally, Miura discloses that the user configures the call incoming operation limiting function using the operating portion of the telephone. *See Miura*, col. 6, lines 5-48; col. 7, lines 56-60; col. 9, lines 8-12; col. 10, lines 15-20; col. 11, lines 22-18; and col. 12, lines 29-35. Miura fails to disclose or suggest a mobile telephone comprising a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the

ringer control schedule created using and downloaded thereto by the external device, as recited by claim 16.

Thus, the asserted combination of Awada and Miura fails to disclose or suggest at least one element of each of the independent claims 1, 12, and 16, and therefore of claims 5, 15, and 21, at least by virtue of their dependency from one of the claims 1, 12, or 16. Accordingly, the rejection of claims 5, 15, and 21 over the asserted combination of Awada and Miura should be withdrawn.

C. CLAIMS 8, 9, 17 AND 18 ARE ALLOWABLE OVER AWADA IN VIEW OF DUTTA.

Appellant traverses the rejection of claims 8, 9, 17 and 18 under 35 U.S.C. 103(a) over Awada in view of U.S. Patent No. 6,760,581 ("Dutta") at page 9, paragraph 4 of the Final Office Action. Claims 8 and 9 depend from claim 1. Claims 17 and 18 depend from claim 16. As discussed with respect to claim 1, Awada fails to disclose or suggest a mobile telephone having a control to override a ringer control schedule. As discussed with respect to claim 16, Awada fails to disclose or suggest a mobile telephone comprising a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule created using and downloaded thereto by the external device, as recited by claim 16.

The Office Action fails to assert that Dutta discloses or suggests these claimed elements. Dutta discloses a system and method of providing a hold operation from a mobile telephone. *See Dutta*, Abstract. Dutta discloses that the user configures the mobile telephone using the mobile telephone to configure the hold operations. *See Dutta*, col. 5, lines 1-24. Dutta discloses that the mobile telephone can be configured to respond to Bluetooth automatic hold commands. *See Dutta*, col. 5, line 24 through col. 6, line 13. Dutta fails to disclose or suggest a control to override the ringer control schedule, as

recited by claim 1. Dutta also fails to disclose or suggest a mobile telephone comprising a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule created using and downloaded thereto by the external device, as recited by claim 16. Accordingly, the Office Action fails to establish that the proposed combination of Awada and Dutta discloses or suggests the specific combination of elements recited by claims 8, 9, 17 and 18 at least by virtue of their dependency from claims 1 and 16, respectively.

Moreover, claims 8, 9, 17 and 18 recite specific combinations of elements neither disclosed nor suggested by the cited references. For example, claim 7, from which claim 8 depends, recites the feature of an interface to an external device, wherein a ringer schedule interface uses the interface to receive at least part of a ringer control schedule created using and downloaded by the external device. Claim 8 recites that the interface comprises a short-range wireless interface. The Office Action at page 9 acknowledges that Awada fails to disclose or suggest a short-range wireless interface and alleges that that the passage of Dutta at col. 5, lines 50-67 discloses these claim elements. For ease of reference, the cited passage of Dutta is reproduced in its entirety below:

A determination is made as to whether the mobile telephone user wants to be notified when the automatic hold function is triggered by a Bluetooth server command (decision 660). If the user wishes to be notified (see FIG. 5 for details regarding the user's preference), decision 660 branches to "yes" branch 665 whereupon a signal, such as a vibration or a ring, emanates from the mobile phone informing the user that an automatic hold request has been received from a Bluetooth server (step 670).

After the Bluetooth hold command has been received and processed, selected incoming calls are automatically held (step 680). Automatic holding of a call checks to determine whether the incoming caller is on the user's pre-selected list (see FIG. 5, step 520). If the caller is on the pre-selected list, a signal, such as a vibration or a ring, emanates from the mobile phone informing the user that a caller has been placed on hold. *See Dutta*, col. 5, lines 50-67.

The Office Action asserts that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Dutta into the system of Awada in order to provide a hold operation from a mobile telephone (see Dutta, Abstract).” *See Final Office Action*, p. 9, paragraph 4. However, the relied-upon passage of Dutta fails to disclose or suggest the use of a short-range wireless interface to an external device, wherein the ringer schedule interface uses the interface to receive at least part of the ringer control schedule created using and downloaded by an external device, as recited by claim 8. Rather, the disclosure of Dutta is directed to “providing a hold operation from a mobile telephone” and the relied-upon passage of Dutta discloses the use of a “Bluetooth server command” and a “Bluetooth hold command” to implement a hold operation. Dutta fails to disclose that these “Bluetooth commands” are used to transfer at least part of a ringer control schedule. Consequently, Dutta fails to disclose or suggest a ringer schedule interface that uses a short-range wireless interface to receive at least part of a ringer control schedule created using and downloaded by an external device as provided by the combination of claims 7 and 8. The proposed combination of Awada and Dutta fails to disclose or suggest the features of claims 9, 17 and 18 for at least the above cited reasons.

In view of the forgoing, it is respectfully submitted that the obviousness rejection of claims 8, 9, 17 and 18 is improper. Accordingly, the rejection of claims 8, 9, 17 and 18 over the asserted combination of Awada and Dutta should be withdrawn.

D. CLAIM 22 IS ALLOWABLE OVER AWADA AND BURGESS IN VIEW OF DUTTA.

Applicant respectfully traverses the rejection of claim 22 under 35 U.S.C. §103(a) over Awada and Burgess, in further view of Dutta at page 10, paragraph 5 of the Final Office Action. The Final Office Action acknowledges that Awada fails to disclose the ringer control schedule indicating times at which a parameter of the ringer is to change. *See Final Office Action*, p. 11. The Final Office Action acknowledges that the combination of Awada and Burgess fails to disclose or suggest a short-range wireless interface to an external device. *See Final Office Action*, p. 11. The Final Office Action

asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Dutta into the system of Awada and Burgess in order to provide a hold operation from a mobile telephone. *See Final Office Action*, p. 11. However, Awada and Burgess fail to provide any suggestion to make the asserted combination. In particular, given the time block functionality of Burgess and the configurable telephone parameters of Awada, a worker skilled in the art would not be motivated to modify the combination of Burgess and Awada to include the hold functionality of Dutta, in part, because the hold functionality of Dutta duplicates the time block of Burgess. There exists no motivation to make the asserted combination of Awada, Burgess and Dutta other than that provided by the present disclosure. Consequently, the asserted combination of Awada, Burgess and Dutta constitutes an impermissible hindsight reconstruction. The rejection of claim 22 over the asserted combination of Awada, Burgess and Dutta should be withdrawn.


Appellant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Final Office Action. Accordingly, Appellant respectfully requests reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims 1-10, 12-18, and 20-22. For at least the foregoing reasons, Appellant respectfully submits that the present application is in condition for allowance and reconsideration is respectfully requested.

Appellant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Final Office Action. Accordingly, Appellant respectfully requests reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims 1-10, 12-18, and 20-22. For at least the above reasons, all pending claims are allowable and a notice of allowance is courteously solicited. Please direct any questions or comments to the undersigned attorney at the address indicated. Appellant respectfully requests reconsideration and allowance of all claims and that this patent application be advanced to issue.

The Commissioner is hereby authorized to charge any fees that may be required,
or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

2-10-2006
Date


Jeffrey G. Toler; Reg. No. 38,342
Attorney for Applicant(s)
TOLER, LARSON & ABEL, L.L.P.
5000 Plaza On The Lake, Suite 265
Austin, Texas 78746
(512) 327-5515 (phone)
(512) 327-5452 (fax)

VIII. CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))

The text of each claim involved in the appeal is as follows:

1. (Previously Presented) A mobile telephone comprising:
 - a ringer to provide audible alert of an incoming telephone call;
 - a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change;
 - a ringer controller to automatically change the parameter of the ringer according to the ringer control schedule; and
 - a control to override the ringer control schedule.
2. (Original) The mobile telephone of claim 1 wherein the ringer control schedule indicates, for each day of the week, the times at which the parameter is to change.
3. (Original) The mobile telephone of claim 2 wherein the ringer control schedule comprises a first time for a first day of the week at which the ringer is to be turned off, and a second time for the first day of the week at which the ringer is to be turned back on.
4. (Original) The mobile telephone of claim 3 wherein the ringer control schedule for a second day of the week differs from that for the first day of the week.
5. (Previously Presented) The mobile telephone of claim 1 wherein the change in the parameter of the ringer is selected from turning the ringer off, turning the ringer on, changing a ring tone, and changing a ring volume.
6. (Original) The mobile telephone of claim 1 further comprising:
 - a display device; and
 - a user input device;wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create at least part of the ringer control schedule.

7. (Original) The mobile telephone of claim 1 further comprising:
 - an interface to an external device;
 - wherein the ringer schedule interface uses the interface to receive at least part of the ringer control schedule created using and downloaded by the external device.
8. (Original) The mobile telephone of claim 7 wherein the interface comprises a short-range wireless interface.
9. (Original) The mobile telephone of claim 8 wherein the short-range wireless interface comprises a BLUETOOTH interface.
10. (Original) The mobile telephone of claim 7 wherein the interface comprises a data port.
11. (Canceled)
12. (Previously Presented) A mobile telephone comprising:
 - a ringer to audibly alert of an incoming telephone call;
 - a display device;
 - a user input device;
 - a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create at least part of the ringer control schedule; and
 - a ringer controller to automatically change the parameter of the ringer according to the ringer control schedule;
 - a control to override the ringer control schedule;
 - wherein the ringer control schedule indicates, for each day of the week, the times at which the parameter is to change; and
 - wherein the ringer control schedule comprises a first time for a first day of the week at which the ringer is to be turned off, and a second time for the first day of the week at which the ringer is to be turned back on.

13. (Canceled)

14. (Original) The mobile telephone of claim 12 wherein the ringer control schedule for a second day of the week differs than that for the first day of the week.

15. (Original) The mobile telephone of claim 12 wherein the change in the parameter of the ringer is selected from turning the ringer off, turning the ringer on, changing a ring tone, and changing a ring volume.

16. (Original) A mobile telephone comprising:

- a ringer to audibly alert of an incoming telephone call;

- a display device;

- a user input device;

- an interface to interface with an external device;

- a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change, wherein the ringer schedule interface uses the display device to display at least part of the ringer control schedule and the user input device to create part of the ringer control schedule, and wherein the ringer schedule interface uses the interface to receive another part of the ringer control schedule created using and downloaded thereto by the external device; and

- a ringer controller to automatically change the parameter of the ringer according to the ringer control schedule.

17. (Original) The mobile telephone of claim 16 wherein the interface comprises a short-range wireless interface.

18. (Original) The mobile telephone of claim 17 wherein the short-range wireless interface comprises a BLUETOOTH interface.

19. (Canceled)

20. (Previously Presented) The mobile telephone of claim 16 further comprising a control to override the ringer control schedule.

21. (Previously Presented) The mobile telephone of claim 16 wherein the change in the parameter of the ringer is selected from turning the ringer off, turning the ringer on, changing a ring tone, and changing a ring volume.

22. (Previously Presented) A mobile telephone comprising:

- a ringer to provide audible alert of an incoming telephone call;

- a ringer schedule interface to receive a ringer control schedule, the ringer control schedule indicating times at which a parameter of the ringer is to change;

- a ringer controller to automatically change the parameter of the ringer according to the ringer control schedule;

- an interface to an external device;

wherein the ringer schedule interface uses the interface to receive at least part of the

ringer control schedule created using and downloaded by the external device; and

wherein the interface comprises a short-range wireless interface.

IX. EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

None.

X. RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(c)(1)(x))

None.